

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

LORENZO D. KYLES,

Petitioner,

Case No. 20-cv-77-pp

v.

REED RICHARDSON,

Respondent.

ORDER GRANTING IN PART PETITIONER'S MOTION FOR APPOINTMENT OF COUNSEL (DKT. NO. 5), GRANTING PETITIONER'S MOTION THAT THE COURT DEFER RULING ON HIS OBJECTION TO MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION (DKT. NO. 6) AND DEFERRING RULING ON PETITIONER'S MOTION FOR PERMISSION TO APPEAL (DKT. NO. 7)

Magistrate Judge Nancy Joseph reviewed the petition, concluding that it was a second or successive petition and that the petitioner had not sought leave from the Seventh Circuit to file it. Dkt. No. 3.

The petitioner objected but asked the court to stay its ruling on that objection until the court ruled on his motion to appoint counsel. Dkt. No. 6. The petitioner simultaneously asked the court to appoint his former lawyer to represent him. Dkt. No. 5. The petitioner's former lawyer had provided him with a detailed analysis of Judge Joseph's recommendation and counsel's opinion that she had erred (although understandably, given the unique procedural posture of the case). Dkt. No. 6-2. The petitioner asserted that it was "critical" that the court appoint the petitioner's former counsel to make his case for him. Dkt. No. 5. Finally, the petitioner asked the court for permission to appeal under Fed. R. App. P. 5. Dkt. No. 7.

The court has reviewed the petitioner's filings and the letter from his former attorney, and agrees that the petitioner needs the assistance of an able attorney in determining how to find out from the Seventh Circuit whether it would consider this petition a second or successive petition, and if so, whether that court would grant the petitioner leave to file it. While the court cannot simply reach out and appoint a private lawyer to represent an indigent petitioner, it can ask Federal Defender Services of Wisconsin to provide counsel. The court has done this and FDSW agreed that Assistant Federal Defender Shelley Fite, a highly experienced federal defense attorney, would accept the appointment.

The court will appoint Attorney Fite. It will defer ruling on the petitioner's objection to Judge Joseph's recommendation. It also will defer ruling on the petitioner's request for leave to appeal; Attorney Fite may conclude that an appeal is not the appropriate way to resolve the petitioner's situation.

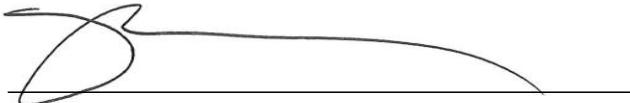
The court **GRANTS** the petitioner's motion to appoint counsel to the extent that it **DIRECTS** Federal Defender Services of Wisconsin to appoint Attorney Shelley Fite to represent the petitioner. Dkt. No. 5.

The court **GRANTS** the petitioner's motion to defer ruling on his objections to the magistrate judge's report and recommendation. Dkt. No. 6.

The court **DEFERS RULING** on the petitioner's motion for permission to appeal. Dkt. No. 7.

Dated in Milwaukee, Wisconsin this 28th day of May, 2020.

BY THE COURT:



HON. PAMELA PEPPER
Chief United States District Judge